

DRAFT 9-25-13.1

WYOMING GAME AND FISH COMMISSION

CHAPTER 37

RAPTOR PROPAGATION REGULATION

~~Section 1. Authority.~~ This regulation is promulgated by authority of W.S. §23-1-103, §23-1-302, §23-2-101 and §23-2-105.

~~Section 2. Regulation and Effective Date.~~ The Wyoming Game and Fish Commission hereby adopts the following regulation. This regulation shall remain in effect until modified or repealed by the Commission.

~~Section 3. Definitions.~~ For the purpose of this regulation, definitions shall be as set forth in Title 23, Wyoming Statutes, Wyoming Game and Fish Commission Regulation 25 Falconry Regulation, revised as of July 7, 2011, and which does not include any later amendments or editions of the incorporated matter. A copy of all Commission regulations can be viewed at any Department Regional Office or the Headquarters Office. The Commission adopts the following definition:

~~(a) "Captivity" means that a live raptor is held in a controlled environment that is intensively manipulated by man for the purpose of producing raptors of selected species, and that has boundaries designed to prevent raptors, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators and artificially supplied food.~~

~~Section 4. Raptor Propagation Regulation Established.~~ The practice of raptor propagation shall be permitted as set forth in this Chapter.

~~Section 5. Permit Requirement.~~ A raptor propagation permit is required before any person may take, possess, transport, purchase, barter, or offer to sell, purchase, or barter any captive bred raptor, raptor eggs or raptor semen for propagation purposes.

~~Section 6. Application Procedures.~~ Applications for raptor propagation permits shall be submitted to the Assistant Regional Director of Law Enforcement, U.S. Fish and Wildlife Service (Service), Denver Federal Center, Denver, Colorado 80225. The Department shall approve permits issued by the Service under a joint State Federal permit system. Pursuant to agreement, the Service shall issue a permit to a Wyoming resident in accordance with the provisions of this Section. Each application shall contain the general information and certification required by Title 50, Code of Federal Regulations (CFR) Part 13.12 (50 CFR 13.12) (a), revised as of October 1, 1998, and which does not include any later amendments or editions of the incorporated matter. A copy of 50 CFR 13.12 (a), can be viewed at any Department Regional Office or the Headquarters Office. Applications shall contain the following information:

~~(a) Applicant's full name, mailing address, and telephone number(s);~~

~~(i) If the applicant is an individual, the applicant's date of birth, height, weight, hair color, eye color, sex and any business or institutional affiliation of the applicant related to the requested permitted activity;~~

_____ (ii) If the applicant is a corporation, firm partnership, association, institution, or public or private agency, the name and address of the president or principle officer and of the registered agent for the service of process;

_____ (b) Location where the requested, permitted activity is to occur or to be conducted;

_____ (c) If the requested, permitted activity involves the import or re-export of a raptor from or to any foreign country, and the country of origin, or the country of export, or re-export restricts the taking, possession, transportation, exportation, or sale, documentation as indicated in 50 CFR 14.52 (c) is required, revised as of October 1, 1998, and which does not include any later amendments or editions of the incorporated matter. A copy of 50 CFR Part 14.52 (c) can be viewed at any Department Regional Office or the Headquarters Office;

_____ (d) Certification in the following language:

_____ I hereby certify that I have read and am familiar with the regulations contained in 50 CFR Part 13, revised as of October 1, 1998, and which does not include any later amendments or editions of the incorporated matter. I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001. A copy of 50 CFR Part 13 can be viewed at any Department Regional Office or the Headquarters Office. _____

(e) Desired effective date of permit;

_____ (f) Date of application;

_____ (g) Signature of applicant;

_____ (h) Such other information as the Service determines relevant to the processing of the application; and,

(i) In addition to the above general information required in the application, the following information is required:-

_____ (i) A statement indicating the purpose(s) for which a raptor propagation permit is sought and, where applicable, the scientific or educational objectives of the applicant;

_____ (ii) A statement indicating whether the applicant has been issued a permit from another state authorizing raptor propagation (including name of state, permit number and expiration date);

_____ (iii) A statement fully describing the nature and extent of the applicant's experience with raptor propagation or handling raptors;

_____ (iv) A description of each raptor the applicant possesses or will acquire for propagation purposes to include the species, age (if known), sex (if known), date of acquisition, source and raptor marker (band) number;

_____ (v) A description of each raptor the applicant possesses for purposes other than raptor propagation, to include the species, age (if known), sex (if known), date of acquisition, source, raptor marker (band) number, and purpose for which it is possessed;

_____ (vi) A description and photographs of the facilities and equipment to be used by the applicant including the dimensions of any structures intended for housing the raptors; and,

~~_____ (vii) A statement indicating whether the applicant requests authority to take raptors from the wild.~~

~~_____ **Section 7. Issuance Criteria.** Upon receiving a properly executed application for a permit in accordance with Section 6 of this Chapter, the Service may issue a raptor propagation permit unless:~~

~~_____ (a) The applicant has been assessed a civil penalty or conviction of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility;~~

~~_____ (b) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;~~

~~_____ (c) The application has failed to demonstrate a valid justification for the permit and a showing of responsibility;~~

~~_____ (d) The authorization requested potentially threatens a raptor population; or,~~

~~_____ (e) The Service finds through further inquiry or investigation, or otherwise, that the applicant is not qualified; and,~~

~~_____ (f) In addition to the above criteria, the following factors shall be considered in making the decision to issue a permit.~~

~~_____ (i) Whether an applicant's raptor propagation facilities are adequate for the number and species of raptors to be under the permit;~~

~~_____ (ii) Whether the applicant is at least eighteen (18) years of age with a minimum of two (2) years experience handling raptors; and, if the applicant requests authority to propagate endangered or threatened species, listed in 50 CFR 17.11, revised as of October 1, 1998, and which does not include any later amendments or editions of the incorporated matter, whether the applicant is at least twenty three (23) years of age with a minimum of seven (7) years of experience handling raptors. A copy of 50 CFR Part 17.11 can be viewed at any Department Regional Office or the Headquarters Office; and,~~

~~_____ (iii) If the applicant requests authority to take raptors from the wild.~~

~~_____ (A) Whether issuance of the permit would have a significant effect on any wild population of raptors;~~

~~_____ (B) Whether suitable captive stock is available; and,~~

~~_____ (C) Whether wild stock is needed to enhance the genetic variability of captive stock.~~

~~_____ **Section 8. Conditions of Issuance and Acceptance.**~~

~~_____ (a) Any permit automatically incorporates within its terms the conditions and requirements of 50 CFR 13, Subpart D, revised as of October 1, 1998, and which does not include any later amendments or editions of the incorporated matter; and, of any part(s) or section(s) specifically authorizing or governing the activity for which the permit is issued. A copy of 50 CFR Part 13, Subpart D, can be viewed at any Department Regional Office or the Headquarters Office.~~

~~———— (b) Any person accepting and holding a raptor propagation permit acknowledges the necessity for close regulation and monitoring of the permitted activity by the government. By accepting such a permit, the permittee consents to and shall allow entry by agents or employees of the Service or Department upon premises where permitted activity is conducted at a reasonable hour. Service agents or law enforcement personnel of the Department may enter such premises to inspect the location, books, records or permits required to be kept by this Chapter and any raptors kept under authority of this permit.~~

~~———— **Section 9. Additional Permit Conditions.** In addition to the general conditions found in this Chapter, raptor propagation permits shall be subject to the following additional conditions:~~

~~———— (a) Facilities. Any raptor possessed under this permit shall be maintained in accordance with Wyoming Game and Fish Commission Regulation Chapter 25, Falconry Regulations, revised as of July 7, 2011, and which does not include any later amendments or editions of the incorporated matter; unless a specific exception in writing is obtained. A copy of all Commission regulations can be viewed at any Department Regional Office or the Headquarters Office. In addition to the requirements set forth in Chapter 25, the breeding facilities for raptors held under this Chapter shall:~~

~~———— (i) Enhance sanitation by providing a well-drained floor, fresh air ventilation, source of light, fresh water for bathing and drinking, access for cleaning, and interior construction materials suitable for thorough cleaning or disinfection; and,~~

~~———— (ii) Enhance the welfare and breeding success of the raptors by providing suitable perches, nesting and feeding sites, and observation ports or inspection windows during times when disturbance is felt to be undesirable.~~

~~———— (b) Incubation of eggs. Each permittee shall notify the Service in writing within five (5) days from the day the first egg is laid by any raptor held under a raptor propagation permit, but notice is not required more than once every sixty (60) days.~~

~~———— (c) Marking requirement. Unless otherwise specifically exempted, every raptor possessed for propagation, including all progeny produced pursuant to the permitted activity, shall be banded in accordance with the following provisions:~~

~~———— (i) Except for captive bred raptors lawfully marked with a seamless numbered band provided by the Service, any raptor possessed for propagation purposes shall be banded with a permanent, non-reusable, numbered band. Raptors obtained from the wild or hatched from an egg taken from the wild shall be marked with a black permanent, non-reusable, numbered band. Lost or removed bands shall be replaced. A marker (band) that is causing damage to a raptor may be removed and another band replaced on the other leg of the raptor. Black permanent, non-reusable, numbered bands shall be used to replace bands of raptors taken from the wild or hatched from an egg taken from the wild. Yellow permanent, non-reusable, numbered bands shall be used to replace bands of captive bred raptors. The permanent, non-reusable, numbered bands shall be provided to the Department by the Service and shall be placed on the raptor by a Department employee or by the permittee in the presence of a Department employee;~~

~~———— (ii) No one shall remove, alter, counterfeit or deface the permanent, non-reusable, numbered marker (band), except that the permittee may remove the rear tab on the marker and may smooth any imperfect surface provided the integrity of the band or the numbering is not altered;~~

~~———— (iii) A Service Form 3-186A (Migratory Bird Acquisition/Disposition Report) completed in accordance with the instructions on the form, shall be submitted to the issuing office of the Service within five (5) calendar days, reporting the loss or removal of a band and rebanding;~~

~~_____ (iv) Unless specifically exempted by the conditions of the raptor propagation permit, each captive bred raptor produced under authority of a raptor propagation permit shall be banded within two (2) weeks of hatching with a numbered, seamless band provided by the Service, placed on the raptor's leg (metatarsus). In marking (banding) captive bred raptors, permittees:~~

~~_____ (A) Shall use a band with an opening (inside diameter) that is small enough to prevent its removal when the raptor is fully grown without causing serious injury to the raptor or damaging the band's integrity or one piece construction;~~

~~_____ (B) May band a raptor with more than one size band when the potential diameter of the raptor's leg at maturity cannot be determined at the time for banding; and,~~

~~_____ (C) Shall remove all but one (1) band from any raptor with more than one (1) band before the raptor is five (5) weeks of age and return all bands removed to the issuing office of the Service.~~

~~_____ (v) No raptor taken from the wild, produced from an egg taken from the wild, or produced from an egg from any source other than bred in captivity under authority of a raptor propagation permit shall be banded with a numbered seamless band issued by the Service; and,~~

~~_____ (vi) No permittee under this section shall band any raptor with any band issued or authorized by the Service unless that raptor is lawfully possessed by the permittee.~~

~~_____ (d) Taking raptors from the wild. No raptor shall be taken from the wild except in accordance with the following:~~

~~_____ (i) A raptor propagation permittee may take a raptor from the wild only in accordance with Wyoming Game and Fish Commission Regulation Chapter 25, Falconry Regulation, revised as of July 7, 2011, and which does not include any later amendments or editions of the incorporated matter. A copy of all Commission regulations can be viewed at any Department Regional Office or the Headquarters Office.~~

~~_____ (ii) No raptor listed in 50 CFR 17.11 as "endangered" or "threatened", revised as of October 1, 1998, and which does not include any later amendments or editions of the incorporated matter, may be taken from the wild without first obtaining the proper federal permit. A copy of 50 CFR Part 17.11 can be viewed at any Department Regional Office or the Headquarters Office.~~

~~_____ (e) Transfer, purchase, sale or barter of raptors, raptor eggs or raptor semen.~~

~~_____ (i) A permittee may transfer any lawfully possessed raptor, raptor egg or raptor semen to another permittee or transfer any raptor to a falconer who holds a valid falconry permit if no money or other consideration is involved;~~

~~_____ (ii) A permittee may transfer, purchase, sell or barter any raptor that is banded with a numbered seamless marker (band) provided or authorized by the Service, subject to the following conditions:~~

~~_____ (A) When the permittee purchases from, sells to, or barter with any person in the United States, that person shall be authorized under this Chapter or Wyoming Game and Fish Regulation Chapter 25, Falconry Regulation, revised as of July 7, 2011, and which does not include any later amendments or editions of the incorporated matter, to purchase, sell or barter captive bred raptors. A copy of all Commission regulations can be viewed at any Department Regional Office or the Headquarters Office.~~

~~_____ (B) When the permittee purchases from or barter with any person in a foreign country, that person shall be authorized by the competent wildlife management authority of the foreign country in which the transaction occurs to sell or barter captive bred raptors; and,~~

~~_____ (C) When the permittee transfers to, sells to or barter with any person in a foreign country, that person shall be authorized to possess, purchase, or barter captive bred raptors by the competent wildlife management authority of his country of residence or domicile and the same wildlife management authority shall certify in writing that the recipient is an experienced falconer or raptor propagator who is required to maintain any raptors in his possession under conditions that are comparable to the conditions under which a permittee shall maintain raptors as provided in 50 CFR 21.29 and 21.30, revised as of October 1, 1998, and which does not include any later amendments or editions of the incorporated matter. No certificate is required if the competent wildlife management authority itself is the recipient of captive bred raptors for conservation purposes. A copy of 50 CFR Part 21.29 and 50 CFR Part 21.30 can be viewed at any Department Regional Office or the Headquarters Office.~~

~~_____ (iii) No raptor shall be traded, transferred, purchased, sold or bartered until it is two (2) weeks of age and only after it is properly banded with a permanent, non-reusable marker (band) provided or authorized by the Service, unless it is transferred, sold or bartered to a state or federal wildlife management agency for conservation purposes;~~

~~_____ (iv) A permittee may purchase, sell or barter semen collected from any captive bred raptor; and,~~

~~_____ (v) A permittee shall not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.~~

~~_____ (f) Sell, purchase, barter. A permittee shall not sell, purchase, barter, or offer to sell, purchase or barter any raptor unless the raptor is marked on the raptor's leg (metatarsus) by a seamless, numbered band supplied by the Service.~~

~~_____ (g) Transfer to another. A permittee shall not receive or otherwise acquire from, shall not transfer or otherwise dispose of to, and shall not loan to or temporarily place with another person any raptor unless that person is authorized to acquire, possess and dispose of such raptors under a valid permit used pursuant to this Chapter or Wyoming Game and Fish Commission Regulation Chapter 25, Falconry Regulation, revised as of July 7, 2011, and which does not include any later amendments or editions of the incorporated matter. A copy of all Commission regulations can be viewed at any Department Regional Office or the Headquarters Office.~~

~~_____ (h) Use in Falconry. A permittee may use a raptor possessed for propagation in the sport of falconry only if such use is designated in both the propagation permit and the permittee's falconry permit.~~

~~_____ (i) Use of Service Form 3-186A. No permittee shall take, purchase, receive or otherwise acquire, sell, trade, barter, transfer or otherwise dispose of any raptor unless such permittee submits a Service Form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office of the Service within five (5) calendar days of any such transfer. Provided, that a permittee does not have to submit a Service Form 3-186A (Migratory Bird Acquisition/Disposition Report) to report the acquisition of raptors hatched from eggs produced as a result of the permittee's propagation activities as long as these raptors remain in the possession of the permittee.~~

~~_____ (j) Documentation of lawful possession. No raptor shall be possessed under authority of a raptor propagation permit unless the permittee has a properly completed Service Form 3-186A (Migratory Bird Acquisition/Disposition Report) for each bird possessed, except as provided in paragraph (i) of this section.~~

~~————— (k) Temporary Possession. A raptor possessed under authority of a raptor propagation permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by the properly completed Service Form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.~~

~~————— (l) Interspecific Hybridization. Hybridization between species (interspecific hybridization) shall be authorized only if each raptor produced by interspecific hybridization is either imprinted on humans (hand raised in isolation from the sight of other raptors from two (2) weeks of age until it is fully feathered) or surgically sterilized.~~

~~————— (m) Possession of Dead Raptors, Non Viable Eggs, Nests and Feathers.~~

~~————— (i) Upon the death of any raptor held under permit, a permittee shall remove the marker and immediately return it to the Service. The carcass shall be destroyed immediately, unless the permittee requests authorization from the Service to retain possession of it. A permittee who has obtained written authorization from the Service to retain possession of the carcass may transfer it to any person authorized by the Service to possess it, provided no money or other considerations are involved; and,~~

~~————— (ii) A permittee may possess addled or blown eggs, nests and feathers from raptors held under permit and may transfer any of these items to any other person authorized by the Service to possess them provided no money or other consideration is involved.~~

~~————— (n) Intentional Release.~~

~~————— (i) A permittee shall obtain written authorization from the Service and from the Chief of the Wildlife Division of the Department, or his designee, before intentionally releasing any raptor to the wild. The raptor marker (band) shall be removed from each bird and immediately returned to the Service. A federal bird band shall be attached to each raptor by a person designated by the Service before release; and,~~

~~————— (ii) No raptor produced by interspecific hybridization shall be intentionally released to the wild.~~

~~————— **Section 10. Record Keeping.** A permittee shall maintain complete and accurate records of all operations, to include the following:—~~

~~————— (a) Acquisition of raptors, eggs or semen from sources other than production.~~

~~————— (i) Description of stock shall include: species, sex and age of each (if applicable), genotype natal area (geographical breeding site or area that captive stock represents), and marker (band) number (if applicable);~~

~~————— (ii) Number or amount of semen, egg(s) and bird(s) acquired; and,~~

~~————— (iii) How stock was acquired to include purchase, barter or transfer (including purchase price or a description of any other consideration involved), or if taken from the wild, the month, day and year acquired; the name, address and permit number of seller, from whom the stock was bartered or transferred; or, if from the wild, the location from which the stock was taken.~~

~~————— (b) Disposition of Raptors, Eggs or Semen.~~

_____ (i) Description of the stock by species, sex and age of each (if applicable), genotype natal area (geographical breeding site or area that captive stock represents), and marker (band) number;

_____ (ii) Number or amount of semen, egg(s) or bird(s);

_____ (iii) The manner of disposition including sale, barter or transfer (including the sale price or a description of any other consideration involved), live loss, intentional release to the wild or death;

_____ (iv) Disposition month, day and year of any dead bird; and,

_____ (v) If stock is disposed to the person, that person's name, address and permit number of purchaser, barterer or transferee or description and location of other disposition.

(c) ~~Production and Pedigree Record.~~

_____ (i) Identify the mother and father(s) by species, genotype natal area and marker (band) number;

_____ (ii) Insemination means identified as natural, artificial or combined;

_____ (iii) Number of eggs laid in total, first date and last date;

_____ (iv) Number of eggs hatched in total, the first date and last date; and,

_____ (v) Number of young raised to two (2) weeks of age and marker (band) number placed on each raptor and date each raptor was marked (banded).

_____ **Section 11. Annual Report.** A permittee shall submit an annual report by January 31 of each calendar year for the preceding year to the Service and to the Chief of the Wildlife Division of the Department. The report shall include the following information for each species possessed by the permittee:

_____ (a) Number of raptors possessed as of December 31 (including the species, marker (band) number, sex and age of each raptor);

_____ (b) Number of females laying eggs;

_____ (c) Number of eggs laid;

_____ (d) Number of eggs hatched;

_____ (e) Number of young raised to two (2) weeks of age; and,

_____ (f) Number of raptors purchased, sold, bartered, received or transferred (including the species, marker or band number, sex and age of each raptor), the date of the transaction, and the name, address and permit number of each purchaser, seller, barterer, transferor or transferee.

_____ **Section 12. Term of Permit.** A raptor propagation permit issued or renewed under this Chapter expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal. Violation of this regulation or federal regulations involving captive breeding and propagation of raptors is just cause for revocation of the raptor propagation permit.

~~Section 13. Most Restrictive State or Federal Regulation.~~ State and federal regulations govern the capture propagation of raptors. In all cases the most restrictive regulation, whether federal or state, shall apply.

~~Section 14. Violation of Commission Regulations.~~ Failure to abide by the provisions of this regulation shall be punishable as provided by Wyoming statutes for violation of Commission regulations.

~~Section 15. Savings Clause.~~ If any provision of this regulation is held to be illegal or unconstitutional, such a ruling shall not affect other provisions of this regulation which can be given effect without the illegal or unconstitutional provision; and, to this end, the provisions of this regulation are severable.

WYOMING GAME AND FISH COMMISSION

By: _____

Fred Lindzey, President

Dated: July 7, 2011